

CASEY LAW GROUP
ATTORNEYS AT LAW

1 ARTHUR J. CASEY [SBN 123273]
Email: acasey@caseylawsj.com
2 DONALD P. GAGLIARDI [SBN 138979]
Email: dgagliardi@caseylawsj.com
3 CASEY LAW GROUP
16450 Los Gatos Blvd., Suite 110
4 Los Gatos, CA 95032
Tel: (408) 660-3102
5 Fax: (408) 660-3105

6 Attorneys for Defendant
COSTCO WHOLESALE CORPORATION
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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION
12

13 RHODA PAUL,

14 Plaintiff,

15 vs.
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17 COSTCO WHOLESALE CORPORATION;
18 and DOES 1 to 20,

19 Defendants.
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Case No.

Underlying Case No. RG21092675 (Alameda
County Superior Court)

**NOTICE OF REMOVAL TO FEDERAL
COURT**

[Diversity of Citizenship,
28 U.S.C. §§ 1332, 1441 & 1446]

DEMAND FOR JURY TRIAL

1 TO THE CLERK OF THE ABOVE-NAMED FEDERAL DISTRICT COURT:

2 PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441 & 1446, defendant
3 Costco Wholesale Corporation, by and through its undersigned counsel, hereby removes Case No.
4 RG21092675, pending in the Superior Court of California for the County of Alameda, to the
5 United States District Court for the Northern District of California, Oakland Division.

6 Removal is based on complete diversity of citizenship, because diversity of citizenship
7 exists between the lone plaintiff, Rhoda Paul, and the lone named defendant, Costco Wholesale
8 Corporation (“Costco”), and the amount in controversy exceeds the jurisdictional minimum. *See*,
9 28 U.S.C. § 1332.

10 **I. BACKGROUND.**

11 On March 19, 2021, this civil action was commenced in the Superior Court of the State of
12 California in and for the County of Alameda, entitled, *Rhoda Paul v. Costco Wholesale*
13 *Corporation and Does Nos. 1 to 20*, Case No. RG21092675. Plaintiff Rhoda Paul asserts a cause
14 of action for general negligence. She alleges in her California Judicial Council form Complaint
15 that on April 13, 2019, she was shopping at a Costco store located in Livermore, California, when
16 she was struck by a shopping cart while a Costco employee was moving shopping carts thereby
17 causing “severe and traumatic” injuries. Ms. Paul’s Complaint seeks unspecified damages
18 “according to proof” for wage loss, general damages, and expressly for “pain and suffering.”

19 On April 8, 2021, Costco was served with the Complaint, through its agent for service of
20 process, CT Corporation. On April 29, 2021, Ms. Paul’s counsel provided Costco’s counsel a
21 courtesy extension through May 17, 2021 to respond to the Complaint.

22 By letter dated April 22, 2021, sent by email and U.S. Mail, Ms. Paul’s counsel served on
23 Costco’s insurance claims administrator a written demand for settlement with respect to her claims
24 against Costco. The settlement demand letter outlines Ms. Paul’s claimed damages under the
25 heading “DAMAGES SUMMARY”, at unnumbered pages 4 and 5, totaling \$550,105, and
26 comprising past medical specials (\$2,201); future medical treatment (\$33,904); past wage loss
27 (\$14,000); and pain and suffering (\$500,000). Under a separate heading “SETTLEMENT
28 DEMAND”, at unnumbered page 5, Ms. Paul’s counsel asserts that Costco is “facing an award in

1 excess of \$500,000” in Ms. Paul’s favor at trial. The April 22, 2021 settlement demand letter
 2 establishes that Ms. Paul’s damages exceed the jurisdictional minimum for diversity of citizenship
 3 subject matter jurisdiction in this Court. *See, Cohn v. Petsmart, Inc.*, 281 F.3d 847, 850 (9th Cir.
 4 2002) (written settlement demand admissible to establish amount in controversy for federal
 5 diversity jurisdiction); *see also, e.g., Richmond v. Allstate Ins. Co.*, 897 F. Supp. 447, 449-50
 6 (S.D.Cal. 1995) (pain and suffering damages may be included in calculation of amount in
 7 controversy for determining diversity jurisdiction).

8 In accordance with 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders
 9 received by Costco, including the Summons and Complaint, are attached hereto and incorporated
 10 herein by reference as **Exhibit A**.

11 **II. THIS NOTICE OF REMOVAL IS TIMELY FILED.**

12 The removal of this civil action to this Court is timely under 28 U.S.C. § 1446(b) because
 13 this Notice of Removal is filed within thirty (30) days after April 22, 2021, which is the date
 14 defendant Costco first learned, through its insurer, by virtue of receipt of Ms. Paul’s counsel’s
 15 settlement demand letter sent by email the same date, of facts establishing federal subject matter
 16 jurisdiction by virtue of diversity of citizenship of the parties and an amount in controversy
 17 exceeding the jurisdictional minimum. Also, less than one year has elapsed since commencement
 18 of the action. 28 U.S.C. § 1446(c)(1).

19 The United States District Court for the Northern District of California, Oakland Division,
 20 is the proper place to file this Notice of Removal under 28 U.S.C. § 1441(a) because it is the
 21 federal district court that embraces the place where the original state court action was filed and is
 22 pending.

23 **III. THIS COURT HAS DIVERSITY OF CITIZENSHIP JURISDICTION.**

24 Lone plaintiff Rhoda Paul and lone named defendant Costco Wholesale Corporation are
 25 citizens of different states. On information and belief, Ms. Paul is a citizen of California. Costco
 26 Wholesale Corporation is a corporation formed under the laws of State of Washington with its
 27 principal place of business in Issaquah, Washington.

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1 On information and belief, Ms. Paul's claim for damages exceeds the jurisdictional
2 minimum of seventy-five-thousand dollars (\$75,000) for diversity jurisdiction in federal court. As
3 mentioned above, by letter dated April 22, 2021, Ms. Paul's counsel served on Costco's insurance
4 claims administrator a written demand for settlement which expressly claims damages in excess of
5 \$500,000. Costco first learned, by virtue of its insurer's receipt of the April 22, 2021 settlement
6 demand letter, of facts establishing federal subject matter jurisdiction by virtue of diversity of
7 citizenship of the parties and an amount in controversy exceeding the \$75,000 jurisdictional
8 minimum.

9 Therefore, federal diversity of citizenship jurisdiction exists over this action pursuant to 28
10 U.S.C. §§ 1332.

11 **IV. ALL NAMED DEFENDANTS CONSENT TO THE REMOVAL.**

12 This Notice of Removal is filed on behalf of named defendant Costco Wholesale
13 Corporation. There are no other named defendants, only Doe defendants. Therefore, by
14 definition, all named defendants have consented to the removal of this action.

15 **V. NOTICE OF REMOVAL TO PLAINTIFF AND**
16 **THE ALAMEDA COUNTY SUPERIOR COURT.**

17 Concurrently with this Notice of Removal, Costco will file a Notice to Plaintiff of
18 Removal of Action to Federal Court, along with a copy of this Notice of Removal with the
19 Superior Court of the State of California in and for the County of Alameda, and in accordance
20 with 28 U.S.C. §§ 1444(d), Costco will serve a copy thereof upon counsel for plaintiff Rhoda
21 Paul. A copy of the prepared Notice to Plaintiff of Removal of Action to Federal Court is attached
22 hereto and incorporated herein by reference as **Exhibit B**.

23 If any question arises as to the propriety of the removal of this action, counsel for Costco
24 respectfully requests the opportunity to present a brief and oral argument in support of the position
25 that this case is removable.

26 **VI. CONCLUSION.**

27 For the foregoing reasons, defendant Costco Wholesale Corporation respectfully requests
28 that this civil action be, and is hereby, removed to the United States District Court for the Northern

1 District of California, Oakland Division, that said federal district court assume jurisdiction of this
2 civil action, and that this Court enter such further orders as may be necessary to accomplish the
3 requested removal and to promote the ends of justice.

4 **VII. JURY TRIAL DEMAND**

5 Defendant Costco Wholesale Corporation hereby demands a trial by jury. *Fed.R.Civ.P.*
6 38.

7 Dated: May 14, 2021

CASEY LAW GROUP

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9 By: 

10 ARTHUR J. CASEY

DONALD P. GAGLIARDI

11 Attorneys for Defendant

12 COSTCO WHOLESALE CORPORATION
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